IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10088 OF 2004

Kamal Bhikaji Kambale & Ors. .. Petitioners.
Vs.
Gopinath Bhikaji Reddies & Ors. .. Respondents.

Mr.M.D.Parab for the petitioners.

CORAM : D.B.BHOSALE, J.

DATED : 22ND DECEMBER, 2004

P.C.:

. Heard Mr.Parab, learned counsel for the petitioners.

2. By this writ petition, the petitioners have impugned the order dated 30.11.2004 by which the trial court has rejected the application-Exhibit-50 filed by the petitioners for setting aside "No W.S." order dated 23.4.2002 holding that written statement was not filed within stipulated period. It appears that while rejecting the application the judgment of this court in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Maharashtra Law Journal 419** which has been confirmed by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Others Vs. Shivaji Bhausaheb Gadhe and**

Others in Writ Petition No.2847 of 2004 vide its judgment dated 12/13 August, 2004 was not taken into consideration. Keeping that in view, in my opinion, the following order would meet the ends of justice:

(a) The trial court will reconsider the application Exhibit-50 filed by the petitioner-defendant in the light of the law laid down by this court in the judgments aforestated after giving an opportunity of being heard to the parties.

(b) The impugned order dated 30.11.2004, accordingly, renders ineffective.

. The petitioners are directed to produce a copy of this order before the trial court within two weeks from today, failing which, the impugned order will operate against the petitioners. The writ petition is disposed of.

(D.B.Bhosale, J.)